

**ENFORCEMENT SENSITIVE
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LITIGATION
FOIA EXEMPT**

MEMORANDUM

SUBJECT: Enforcement First Report/Enforcement Attachment (EnFiRep) - Original
Wilcox Oil Refinery Superfund Site
Bristow, Creek County, Oklahoma
Site ID# 06NY

FROM: Ben Banipal, Associate Director
Technical & Enforcement Branch (6SF-T)

TO: John Meyer, Associate Director
Remedial Branch (6SF-R)

This memo provides information on the status of Enforcement First Activities at the Wilcox Oil Refinery Superfund Site (Site), including the efforts that have been made and/or will be made to identify potentially responsible parties (PRPs) associated with the site and to compel such PRPs to undertake and/or contribute to the investigation and clean-up of the Site. This memo further provides the opinion of the Enforcement Assessment Team regarding the issuance of notice, either general or special, to the PRPs identified below.

A. Enforcement Overview

Former operators at the Site, Marathon Oil, Sun Pipe Line Company, Atlantic Richfield, BP Corporation, BNSF Railway Company, and Sunoco, were issued Special Notice Letters on July 28, 2014. The parties declined to participate in AOC negotiations to complete the RI/FS. After additional PRP search work the recommendation is to

B. Site Background

The Site consists of the former Lorraine/Wilcox Refinery located in Bristow, Creek County, Oklahoma. The property was utilized by two different refineries with overlapping boundaries from 1915 to 1965. The Site includes remnants of former oil refining operations and tank farms. The Site has three major former operational areas and product storage areas. An active railroad divides the two former processing areas and product storage areas. Most of the refinery structures and tanks have been removed or are in ruins. The tank farm covers approximately 80 acres and has a number of refinery waste source areas of concern, including a backfilled oily waste pond, a breached settling pond, a backfilled oily waste pit, a former pond apparently backfilled with solid refinery waste, and a number of tar/asphalt mat waste area. The results of samples collected observed releases to shallow

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ground water, surface water, sediment and subsurface soils. The results indicated high concentration of petroleum hydrocarbons, lead, and polyaromatic hydrocarbons in oily waste at numerous locations on Site. There are multiple areas of stressed vegetation, barren areas, and visible black tarry waste of a hydrocarbon nature throughout the 125 acre Site.

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C. PRP Search Progress and Results to Date.

1. Describe PRP Search activities that have been completed or are ongoing as of the date of this Report.

a. 104(e) Information Requests

- i. A CERCLA 104(e) was sent to Kinder Morgan on October 25, 2012, (SDMS 670729), ConocoPhillips on April 23, 2013 (SDMS 682548), Phillips 66 on April 23, 2013 (SDMS 682548), and Chevron on May 1, 2013 (SDMS 682955).

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Kinder Morgan provided in its response (SDSM 9339733) corporate documents and a copy of a liquidation trust.

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ConocoPhillips responded on June 21, 2013 (SDMS 698436). In its response, it was explained that ConocoPhillips separated into two independent companies. The “upstream” (oil and gas exploration and production) entities, assets and liabilities remained with ConocoPhillips and the “downstream” (product refining, shipping and marketing” entities, assets and liabilities were transferred to a newly created entity named Phillips 66. ConocoPhillips conducted an investigation and concluded the upstream entity had no contact or involvement with the Site. ConocoPhillips forwarded the 104(e) request to Phillips66. Phillips 66 responded to the 104(e) on June 26, 2013 (SDMS 698805). Phillips 66 conducted a search of its records and discovered no documentation or information linking them to the Site.

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Chevron responded to the 104(e) request on June 24, 2013 (SDMS 698476). In its response Chevron indicated that no information linking them to the Site was located.

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- ii No Further 104(e) letters are planned to be issued.

b. Deed and Title Search

A deed and title search (SDMS 707826) was completed by ESS IV contractor, Toerek and Associates on May 16, 2014. The report identified all past owners, lease holders, easements and right of ways. The report also identified property currently owned by private residents. List the past owners identified and the years of ownership.

i. No further Deed and Title searches are planned.

c. Records Collection

Documents were collected and reviewed from the Bristow Public Library, Delaware Secretary of State, Oklahoma Secretary of State, Creek County Assessor's Office, Bristow Historical Society, and the Moody's Industrial Journal. A detailed list of resources and data collected is listed in Table 3 of the Enhanced Corporate and Operational History Report (SDMS 500001774).

ii. No future review of records is known at this time.

d. Interviews

A telephone interview (SDMS 718968) was conducted with Mr. (b) (6) on January 15, 2015. Mr. (b) (6) has been in the oil business for a number of years and a longtime resident of Bristow, Oklahoma. He provided information about the role of the railroad during refining operations during that time period. He indicated that the business practice at the time was for the crude oil to come into the refinery by pipeline and the refined product was shipped by rail.

e. Other

No other PRP search activities have taken place.

2. PRPs Identified

The PRPs identified are the remaining active PRPs identified that owned or operated during the operational period of the Site. A complete list of past owners and operators can be found in the Title Search and Corporate History Report (SDMS 707826).

a. Owner/Operators

Kinder Morgan

Marathon Oil Company

BNSF Railway Company

Sun Pipe Line Company

Sunoco, Inc.

BP Corporation North America

Atlantic Richfield

b. Generators- None Identified

c. Transporters- None Identified

3. PRP Financial Viability

All active PRPs identified are financially viable.

4. Future PRP Search Strategy.

None at this time.

D. Notification of PRPs of Potential Liability

1. Notices Sent.

Special Notice issued to: Marathon Oil (SDMS 708674), BNSF (SDMS 9421390), Sunoco (SDMS 9421385), Sun Pipe Line (SDMS 9421388), BP Corporation (SDMS 9421386), and Atlantic Richfield Company (SDMS 9421392) on July 28, 2014.

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Marathon Oil Company responded (SDMS 9526372) to the special notice letter (SNL) on September 12, 2014. Their response indicated that the information allegedly tying the company to the site was a meager, and the information did not include evidence that the company operated the refinery.

BNSF responded (SDMS 712645) to the SNL on August 27, 2014. Their response indicated that a railroad right-of-way in the nature of an easement is not sufficient property interest to give rise to owner liability and that BNSF's operations on the Main line or the Spur do not implicate the company as a liable operator and declined to participate in negotiations.

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Sunoco and Sun Pipe Line submitted a combined response (SDMS 713770) to the SNL on October 15, 2014. Both were unable to confirm their respective responsibility for the conditions at the Site and declined to participate in negotiations.

BP America responded (SDMS 712644) on behalf of Atlantic Richfield and BP Corporation on September 19, 2014. The response stated that the documents provided by the EPA did not suggest that Atlantic Richfield Company or BP had any connection to the Site that would lead it to enter into an Administrative Order of Consent. The response also indicated that the petroleum exclusion would appear to apply.

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2. Future Notices Planned.

None at this time.

E. Potential to be a Superfund Alternative Site

At this time Wilcox Oil is not a candidate for an Alternative Superfund Site.

F. Expectation for PRP Lead Response

Based on extensive research, Enforcement believes that it is unlikely that the response will be PRP lead at this time.

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Kinder Morgan, the successor to El Paso Energy Company (EPEC) and Tenneco, was the former owner/operator of the Site through merger. They were identified by the Oklahoma Department of Environmental Quality (ODEQ) and the EPA in 1994 Preliminary Assessment Report as a PRP (SDMS 901570). ODEQ did not approach Kinder Morgan to conduct remedial activities until October 31, 2011, in a letter requesting they participate in the voluntary clean-up program (SDMS 9515654). Kinder Morgan responded (SDMS 651569) to the ODEQ request on February 3, 2012. its response explained the corporate relationship between Wilcox Oil, Tenneco, and El Paso Energy and the EPEC Oil Company Liquidating Trust. On December 18, 1998, EPEC was dissolved and the EPEC Oil Liquidating Trust was created on March 9, 2001. The Trust had a claims assertion date of December 18, 2008. The ODEQ request for Kinder Morgan to participate in a the voluntary clean-up program was declined due to the request being made three years after the claims assertion date. The EPA requested and received the Liquidation Trust documents in a 104(e) request for information from Kinder Morgan. The Liquidation Trust documents were reviewed by Regional Counsel and it was concluded that the EPA could not pursue enforcement action.

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An Enhanced Corporate and Operational History Report (SDMS 500001774) was completed on March 16, 2015. The report did not uncover any operational history or any additional information that would potentially encourage the recipients of the SNL to participate in RI/FS negotiations. Based on a review of the report by Regional Counsel and the Enforcement Section it was concluded that no further enforcement action would be beneficial.

G. Mixed Funding Option

A mixed funding option has not been determined at this time.

The Enforcement Officer assigned to this site is Lance Nixon. If additional information is needed, he can be reached at x2203.